IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

WP(C).No. 23755 of 2004(C)

PETITIONER:

P.N.MEENAKSHI, W/O.GOPINATHAN ACHARI,
AGED 58 YEARS, PRASADAM, H.M.TCOLONY,
KALAMASSERY, ERNAKULAM.

BY ADV. SRI.SHAJI P.CHALY.

RESPONDENTS:
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1. **THE KALAMASSERY MUNICIPALITY,**
   KALAMASSERY REP. BY ITS SECRETARY.

2. **THE SECRETARY, KALAMASSERY MUNICIPALITY**
   KALAMASSERY.

3. **SARADHA, AGED ABOUT 53 YEARS,**
   W/O.PARAMESWARAN, NAMBATTIL HOUSE,
   VIDAKKUZHAKKARA, THRIKKAKKARA NORTH VILLAGE,
   ERNAKULAM.

BY ADV. SRI.P.M.SAJI FOR R3,
SRI.M.K.ABOOBACKER FOR R1 & R2.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.23755/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER ISSUED BY THE 1ST AND 2ND RESPONDENTS DTD. 08/07/04.

EXT.P.2: COPY OF THE NOTICE ISSUED BY THE R.1. DTD. 11/03/04.

EXT.P.3: COPY OF THE REPLY NOTICE SENT BY THE PETITIONER TO THE R.2. DTD. 18/03/04.

EXT.P.4: COPY OF THE POSTAL ACKNOWLEDGMENT SHOWING THE ACKNOWLEDGMENT OF THE R.2. DTD. 22/03/04.

EXT.P.5: COPY OF THE ORDER IN I.A. 3304/01 IN O.S. NO. 842/01 ON THE FILES OF THE LEARNED MUNSIFF'S COURT, ALUVA DTD. 14/08/01.

EXT.P.6: COPY OF THE JUDGMENT IN O.S. 842/01 ON THE FILES OF THE LEARNED MUNSIFF'S COURT, ALUVA DTD. 14/11/2003.

//TRUE COPY//

prv.

KURIAN JOSEPH, J.

W.P(C)No.23755 of 2004

Dated this the 14th day of June, 2007

JUDGMENT

Petitioner is aggrieved by Exts.P1 and P2. It is the main contention of the petitioner that prior to the steps taken as per the impugned orders under Section 406(3) of the Kerala Municipality Act, 1994 she was not issued with Section 406(1) notice. It is also submitted that in respect of matters concluded by Ext.P6 judgment of the Munsiff Court, no action can be taken by the Municipality. Be that as it may, since there is no evidence as to the issuance of notice under Section 406(1) I quash Exts.P1 and P2 making it clear that in case the petitioner has still any grievance left, she shall be issued with notice under Section 406 (1) first, she shall be heard and only after passing orders in accordance with law referring to her representation any order under Section 406(3) shall be passed.

(KURIAN JOSEPH, JUDGE)

ahg.